



## **DEPARTMENT OF LABOR**

### **Mine Safety and Health Administration**

**[OMB Control No. 1219-0011]**

#### **Revision of a Currently Approved Collection; Respirable Coal Mine Dust Sampling**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Respirable Coal Mine Dust Sampling.

**DATES:** All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2015-0022.
- *Regular Mail:* Send comments to USDOL-MSHA, Office of Standards, Regulations, and Variances, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, VA 22202-5452.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4<sup>th</sup> floor via the East elevator.

**FOR FURTHER INFORMATION CONTACT:** Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at [MSHA.information.collections@dol.gov](mailto:MSHA.information.collections@dol.gov) (e-mail); 202–693–9440 (voice); or 202–693–9441 (facsimile).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Chronic exposure to respirable coal mine dust causes lung diseases including coal workers' pneumoconiosis (CWP), emphysema, silicosis, and chronic bronchitis, known collectively as "black lung." These diseases are debilitating and can result in disability and premature death. While considerable progress has been made in lowering dust levels since 1970 and, consequently, lowering the prevalence rate of black lung among coal miners, severe forms of black lung continue to be identified. Information from the federally funded Coal Workers' Health Surveillance Programs administered by the National Institute for Occupational Safety and Health (NIOSH) clearly indicates that

black lung remains a key occupational health risk among our nation's coal miners. According to NIOSH, 933 or 3.7 percent of the 25,558 underground coal miners x-rayed between January 2003 and September 2011 were found to have CWP. Also, in FY 2011, over 28,600 former coal miners and the dependents of miners received \$417 million in "black lung" benefits. Since inception of the federal Black Lung Benefits Program in 1970, over \$45 billion in total benefits have been paid out to former miners and their dependents.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty to protect the safety and health of miners. Further, Section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. This Information Collection 1219-0011 reflects requirements of MSHA's final rule, Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors (79 FR 24814; May 1, 2014) related to respirable coal mine dust sampling in effect on February 1, 2016, and respirable dust standards in effect on August 1, 2016.

MSHA's standards in 30 CFR parts 70, 71, and 90 require each mine operator of an underground coal mine, surface coal mine and, surface work areas of an underground coal mine, and each coal mine operator who employs a Part 90 miner, to protect miners from exposure to excessive respirable coal mine dust levels. Parts 70 and 71 require each coal mine operator to continuously maintain the average concentration of respirable coal mine dust in the mine atmosphere where miners normally work or travel at or below 1.5

milligrams per cubic meter ( $\text{mg}/\text{m}^3$ ). This standard is reduced using the formula 10 divided by the percent of quartz when the respirable dust contains more than 5 percent quartz. Overexposure to respirable coal mine dust containing quartz has been associated with silicosis (black lung). These lung diseases are irreversible and may be fatal, but they are preventable. Parts 70 and 71 also require each coal mine operator to continuously maintain the average concentration of respirable dust in intake airways at underground mines at or below  $0.5 \text{ mg}/\text{m}^3$ .

If a Part 90 miner is employed at the mine, the coal mine operator is required to continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which the Part 90 miner in the active workings of the mine is exposed at or below  $0.5 \text{ mg}/\text{m}^3$ . This standard is also reduced if more than 5 percent quartz is found in the mine atmosphere during each shift to which the Part 90 miner is exposed.

MSHA's standards require that coal mine operators sample respirable coal mine dust quarterly and submit these samples to MSHA for analysis to determine if the mine is complying with the applicable dust standards. Underground coal mine operators must sample: the Designated Occupation (DO) and Other Designated Occupation (ODO) in each Mechanized Mining Unit (MMU) under 30 CFR section 70.208 and each Designated Area (DA) at locations specified in the operator's approved mine ventilation plan under 30 CFR section 70.209. In addition, Designated Work Positions (DWP) at surface coal mines and surface work areas of underground coal mines must be sampled under 30 CFR section 71.206. Furthermore, each part 90 miner must be sampled under 30 CFR section 90.207.

Sampling, General and Technical Requirements under Parts 70, 71, and 90:

Section 70.201(b)(2) requires that DAs identified by the underground coal mine operator be sampled quarterly only with an approved Coal Mine Dust Personal Sampling Unit (CMDPSU) unless the operator notifies the District Manager in writing that only an approved Continuous Personal Dust Monitor (CPDM) will be used for all DA sampling at the mine. With respect to DWP sampling, section 71.201(a) requires each mine operator of a surface coal mine and each mine operator of an underground coal mine with surface work areas who is sampling on the surface to sample with an approved CMDPSU, however, the operator may use an approved CPDM if the operator notifies the District Manager in writing that only an approved CPDM will be used for all DWP sampling at the mine. MSHA does not expect underground coal mine operators to use the CPDM to conduct DA sampling underground, or DWP sampling on the surface area of the underground mine. Also, MSHA does not expect surface coal mine operators to use the CPDM to conduct DWP sampling. Thus, there are no notifications to the MSHA District Manager and therefore no burdens to operators for sections 70.201(b)(2) and 71.201(a).

Sections 70.201(e), 71.201(d), and 90.201(f) require that coal mine operators make records showing the length of: each production shift for each MMU; each normal work shift for each DWP; and each shift for each part 90 miner respectively. These provisions also require that the records be retained for at least six months, made available for inspection by authorized representatives of the Secretary and, except in the case of part 90 miners, by the representative of miners. The records must also be submitted to the District Manager when requested in writing.

Section 70.211(c)(5) requires that, when CPDMs are used for sampling, underground coal mine operators print, sign and post a paper record (Dust Data Card) with the shift length. Under section 90.209(c)(5), when CPDMs are used for sampling, coal mine operators must print, sign and provide to each part 90 miner a Dust Data Card with the shift length. Under sections 70.210(c) and 71.207(c), if using a CMDPSU, the operator must complete a dust card, which includes recording the shift length.

There are no separate burdens shown for recording shift lengths for sections 70.201(e) for underground coal mines and 90.201(f) related to part 90 miners when sampling is conducted because records of shift length are accounted for under sections 70.211(c) and 90.209(c) when a CPDM Dust Data Card is printed and signed. However, burdens for recording shift lengths when sampling is not conducted are shown under sections 70.201(e) and 90.201(f).

For surface work areas of underground coal mines and surface coal mines, there is no burden shown for section 71.201(d) when DWP sampling is conducted because records of shift length are accounted for under section 71.207(c) when a CMDPSU Dust Data Card is completed. However, the burden for recording shift length when sampling is not conducted is shown under section 71.201(d).

Sections 70.201(f), 71.201(e), and 90.201(g) require that upon request from the District Manager, the operator must submit the date and time any respirable dust sampling required by part 70, 71, or 90 will begin. The mine operator must submit this information to MSHA at least 48 hours prior to scheduled sampling. In addition, under section 71.201(f), a mine operator may request, in writing, that the rain restriction for a normal work shift as defined in section 71.2 be waived by the District Manager.

Sections 70.210(d), 71.207(d), and 90.208(d) require that all operator samples be considered to be taken to fulfill the sampling requirements of parts 70, 71, and 90, respectively, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for another purpose.

Section 70.201(g) requires that to establish a normal production shift, the operator must record the amount of run-of-mine material produced by each MMU during each shift to determine the average production for the most recent 30 production shifts or for all production shifts if fewer than 30 shifts of production data are available. It also requires that the production records must be retained for at least six months and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Sections 70.201(j) and 90.201(j) allow the mine operator of an anthracite mine that uses the full box, open breast, or slant breast mining method to use either a CPDM or a CMDPSU for respirable coal mine dust sampling required under part 70 or part 90. However, if the mine operator chooses not to use a CPDM, he must notify the District Manager in writing of this decision. To estimate the full cost impact upon coal mine operators, MSHA assumed that these operators will use the CPDM for the required sampling. Therefore, no burden was estimated at this time for these operators to notify the District Manager of their choice not to use the CPDM. Operators may reevaluate whether to use the CPDM. Therefore, future updates to this package may result in a burden for these provisions.

Sampling under Parts 70, and 71: Sections 70.205(b)(2) and 71.205(b)(2) require that if a CMDPSU is used to sample respirable coal mine dust, each approved sampling device must be examined each shift by a person certified in sampling during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the Dust Data Card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable coal mine dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, must also be noted on the back of the Dust Data Card. The burdens for these requirements are included in the burdens estimated to complete the Dust Data Cards under sections 70.210(c) and 71.207(c).

Quarterly Sampling Requirements for Parts 70, 71, and 90: Quarterly sampling requirements are in section 70.208 for MMUs, section 70.209 for DAs, and section 90.207 for part 90 miners. Sections 70.208(e)(3), 70.209(c)(3), and 90.207(c)(3) require that when a valid representative sample meets or exceeds the ECV that corresponds to the applicable standard and particular sampling device used for either an MMU or DA, respectively, or that corresponds to the applicable standard and particular sampling device used for part 90 miner sampling, the operator must make, upon implementation of corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system



so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and, except for part 90 miners, the representative of miners. Also, the records must be made available for inspection by the affected part 90 miner who was sampled.

Sections 70.208(h)(3), 70.209(f)(3), and 90.207(f)(3) require that mine operators, upon issuance of a citation for violation of the applicable standard for either an MMU, DA, or part 90 miner, respectively, must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and, except for part 90 miners, the representative of miners. Also, the records must be made available for inspection by the affected part 90 miner who was sampled.

DWPs at surface coal mines and surface work areas of underground coal mines must be sampled quarterly under section 71.206. Under section 71.206(d), operators with multiple work positions that are specified in section 71.206(c)(2) and (c)(3) must sample the DWP exposed to the greatest respirable dust concentration in each work position performing the same activity or task at the same location at the mine and exposed to the same dust generation source. Each operator must provide the District Manager with a list

identifying the specific work positions where DWP samples will be collected for: active mines; new mines; and DWPs with a change in operational status that increases or reduces the number of active DWPs.

Section 71.206(e) requires that each DWP sample must be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample must be transmitted to MSHA with a notation by the person certified in sampling on the back of the Dust Data Card stating that the sample was not taken on a normal work shift. Section 71.207(c) requires that a person certified in sampling properly complete the Dust Data Card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and include that person's MSHA Individual Identification Number (MIIN). A separate burden has not been included for section 71.206(e) since MSHA assumed that any notations can be made at the same time that the Dust Data Card is completed under section 71.207(c).

Section 71.206(h)(3) requires that when a valid representative sample taken in accordance with this section meets or exceeds the ECV that corresponds to the applicable standard and particular sampling device used, the operator must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records

must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners. There are no separate burden estimates projected for section 71.206(h)(3).

MSHA assumed that surface samples that meet or exceed the applicable ECV will result in a citation, and this burden appears under section 71.206(k)(3).

Section 71.206(k)(3) requires that upon issuance of a citation for violation of the applicable standard, the operator must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Transmission of Respirable Coal Mine Dust Samples by the Operator under Parts 70, 71, and 90: Sections 70.210(a) and 71.207(a) require that if a CMDPSU is used to sample, the operator must transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of part 70, 71, or 90, including control filters, in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochrans Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

Sections 70.210(c) and 71.207(c) require that a person certified in sampling properly complete the Dust Data Card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

Sections 70.210(f), 71.207(f), and 90.208(f) require that if a CPDM is used to sample, the person certified in sampling must validate, certify and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling. All CPDM data files transmitted electronically to MSHA must be maintained by the operator for at least 12 months.

The burdens for sections 70.210(a), (c), and (f), 71.207(a) and (c), and 90.208(f) are included in the burdens for sections 70.210, 71.207, and 90.208. Section 71.207(f) pertains only to using the CPDM. However, operators of surface coal mines and operators of surface work areas of underground coal mines are only required to use the CPDM for part 90 miner sampling, and MSHA does not expect them to use the CPDM to conduct DWP sampling. Thus, the burden for section 71.207(f) is accounted for in the burden for section 90.208(f).

Report to the Operator of Respirable Dust Samples; Post or Provide Results and Report under Parts 70, 71, and 90: Sections 70.211(b) and 71.208(b) require that upon

receipt of the sampling report that contains sampling results from MSHA, the operator must post the data for at least 31 days on the mine bulletin board. Sections 70.211(c) and 71.208(c) require, if using a CPDM, the person certified in sampling, within 12 hours after the end of each sampling shift, to print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of each sample run. This hard-copy record must include the data entered when the sample run was first programmed and the following: the mine identification number; the locations within the mine or the DWP at the mine from which the samples were taken; the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; the sampling status conditions encountered for each sample; and the shift length. Section 71.208(c) requires that when CPDMs are used for DWP sampling, underground coal mine operators that have surface work areas and surface coal mine operators print, sign, and post a paper record (Dust Data Card) with the shift length and other information regarding sampling for each location sampled under Part 71. MSHA does not expect that the CPDM will be used for DWP sampling by underground coal mine operators on the surface area of the underground mine, or by surface coal mine operators. Therefore, no burden was estimated at this time for Section 71.208(c).

For part 90 miners, section 90.209(b) requires that upon receipt of the sampling report from MSHA, the operator must provide a copy to the part 90 miner only. Section 90.209(c) requires that if using a CPDM, the person certified in sampling must print, sign, and provide to each part 90 miner, a paper record (Dust Data Card) of the sample run within one hour after the start of the part 90 miner's next work shift. This hard copy record must include the data entered when the sample run was first programmed, and the

following: the mine identification number; the location within the mine from which the sample was taken; the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; the sampling status conditions encountered for each sample; the shift length; and the part 90 miner's MSHA Individual Identification Number (MIIN).

Operational Status Changes under Parts 70, 71, and 90: Sections 70.212(a), 71.209(a), and 90.210 require that if there is a change in operational status that affects the respirable dust sampling requirements of part 70, 71, or 90, respectively, the operator must report the change in operational status of the mine, MMU, DA, DWP, or part 90 miner (such as the part 90 miner entering a terminated, injured or ill status, or returning to work) to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes must be reported in writing or electronically within 3 working days after the status change has occurred.

Revised Dust Control Parameters in the Mine Ventilation Plan in Response to Violations of the Applicable Standard under Part 70: Sections 70.208(i)(2) and 70.209(g)(2) provide that a citation for violation of the applicable standard shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU, or the DA, respectively, in the citation and such changes have been approved by the District Manager. The revised parameters must reflect the control measures used by the operator to abate the violation.

Dust Control Plan Provisions in Response to Violations of the Applicable Standard under Part 71: Section 71.300(a) requires that the operator must submit to the

District Manager for approval a written respirable dust control plan applicable to the DWP identified in the citation within 15 calendar days after the termination date of a citation for violation of the applicable standard. The respirable dust control plan and revisions must be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard at the DWP identified in the citation.

Section 71.300(a)(1) requires that the mine operator must notify the representative of miners at least 5 days prior to submission to MSHA of a respirable dust control plan and any revision to a dust control plan. If requested, the mine operator must provide a copy to the representative of miners at the time of notification.

Section 71.300(a)(3) requires that a copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted for Agency approval must be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision must remain posted until it is approved, withdrawn, or denied.

Under section 71.301(d)(1), the approved respirable dust control plan and any revisions must be provided upon request to the representative of the miners by the operator following notification of approval.

Under section 71.301(d)(3), the plan or revisions must be posted on the mine bulletin board within 1 working day following notification of approval and remain posted for the period that the plan is in effect.

Under section 71.301(e), the operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

Dust Control Plan Provisions in Response to Violations of the Applicable Standard under Part 90: Section 90.300(a) requires that if an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator must submit to the District Manager for approval a written respirable dust control plan for the part 90 miner in the position identified in the citation within 15 calendar days after the citation is terminated. The respirable dust control plan and revisions thereof must be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard for that part 90 miner.

Section 90.301(d) requires the operator to provide a copy of the current respirable dust control plan to the part 90 miner.

Under section 90.301(e), the operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

Mine Ventilation Plan, Revisions, Notify Miners' Representatives, Provide Copy, and Posting: Section 75.370(a)(3)(i) requires underground coal mine operators to notify the miners' representative at least 5 days prior to submission of mine ventilation plan and any revision and, if requested, provide a copy to the miners' representative at the time of notification. Section 75.370(a)(3)(iii) and (f)(3) require the operator to post a copy of the proposed plan and any proposed revision, and the MSHA-approved plan and any revisions, respectively, on the mine bulletin board. In addition, section 75.370(f)(1) requires the operator to provide a copy of the MSHA-approved plan and any revisions to the miners' representative, if requested.



## **II. Desired Focus of Comments**

MSHA is soliciting comments concerning the proposed information collection related to Respirable Coal Mine Dust Sampling. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on <http://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on [www.regulations.gov](http://www.regulations.gov) and [www.reginfo.gov](http://www.reginfo.gov).

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the FOR FURTHER INFORMATION section of this notice.

### **III. Current Actions**

This request for collection of information contains provisions for Respirable Coal Mine Dust Sampling. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

*Type of Review:* Revision of a currently approved collection

*Agency:* Mine Safety and Health Administration

*OMB Number:* 1219-0011

*Affected Public:* Business or other for-profit

*Number of Respondents:* 1,035

*Frequency:* On occasion

*Number of Responses:* 1,704,366

*Annual Burden Hours:* 94,478 hours

*Annual Respondent or Recordkeeper Cost:* \$40,967

MSHA Forms: Miner Operator Dust Data Card

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,  
*Certifying Officer.*

Billing Code: 4510-43-P

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